

1958—Pub. L. 85-755 substituted “of any other court of the United States” for “of the Customs Court” in first par.

1956—Act July 14, 1956, provided that no designation and assignment of a judge of the Customs Court in active service shall be made without the consent of the chief judge of the court.

1954—Act Sept. 3, 1954, made it clear that the section applies only to the assignment of circuit and district judges in active service.

#### JURISDICTION OF UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS

Amendment by Pub. L. 85-755 not limiting or altering the jurisdiction of the United States Court of Customs and Patent Appeals [now United States Court of Appeals for the Federal Circuit], see section 7 of Pub. L. 85-755, set out as a note under section 291 of this title.

#### LIMITATION OR ALTERATION OF JURISDICTION

Amendment by act July 14, 1956, not to be construed as limiting or altering the jurisdiction heretofore conferred upon the Customs Court [now United States Court of International Trade], see section 4 of act July 14, 1956, set out as a note under section 251 of this title.

### § 296. Powers upon designation and assignment

A justice or judge shall discharge, during the period of his designation and assignment, all judicial duties for which he is designated and assigned. He may be required to perform any duty which might be required of a judge of the court or district or circuit to which he is designated and assigned.

Such justice or judge shall have all the powers of a judge of the court, circuit or district to which he is designated and assigned, except the power to appoint any person to a statutory position or to designate permanently a depository of funds or a newspaper for publication of legal notices.

A justice or judge who has sat by designation and assignment in another district or circuit may, notwithstanding his absence from such district or circuit or the expiration of the period of his designation and assignment, decide or join in the decision and final disposition of all matters submitted to him during such period and in the consideration and disposition of applications for rehearing or further proceedings in such matters.

(June 25, 1948, ch. 646, 62 Stat. 901.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§17, 18, 22, 23, 301 (Mar. 3, 1911, ch. 231, §§13, 14, 18, 19, 188, 36 Stat. 1089, 1143; Oct. 3, 1913, ch. 18, 38 Stat. 203; Feb. 25, 1919, ch. 29, §§2, 5, 40 Stat. 1156, 1157; Sept. 14, 1922, ch. 306, §§3, 4, 5, 42 Stat. 839; Dec. 13, 1926, ch. 6, §1, 44 Stat. 919; Mar. 2, 1929, ch. 488, §1, 45 Stat. 1475; June 7, 1934, ch. 426, 48 Stat. 926; June 25, 1936, ch. 804, 49 Stat. 1921; Aug. 24, 1937, ch. 754, §4, 50 Stat. 753; Dec. 29, 1942, ch. 835, §§1, 2, 5, 6, 56 Stat. 1094, 1095).

Section simplifies provisions of sections 17, 18, paragraphs (b) and (c) of section 22, and sections 23 and 301 of title 28, U.S.C., 1940 ed., relating to powers and duties of designated judges.

Other provisions of said sections 17 and 22 of title 28, U.S.C., 1940 ed., are incorporated in sections 291, 292, and 295 of this title.

Other provisions of said section 301 of title 28, U.S.C., 1940 ed., are incorporated in sections 211-213, 215, and 293 of this title.

Section is made applicable to retired justices of the Supreme Court by inclusion of reference to “justice,”

on the theory that a justice should have the same powers and duties and be subject to the same limitations as designated and assigned circuit and district judges.

The second sentence of the revised section was substituted for the provision of section 18 of title 28, U.S.C., 1940 ed., which subjected circuit judges to the same assignments of duty as the circuit judges of the circuit to which they are designated and assigned. The revised section extends this requirement and makes it applicable to all designated and assigned judges.

The provision in the last paragraph of said section 22 that the action of the assigned judge in writing filed with the clerk of court where the trial or hearing was held shall be valid as if such action had been taken by him within the district and within the period of his designation, was omitted as surplusage. See section 295 of this title.

### § 297. Assignment of judges to courts of the freely associated compact states

(a) The Chief Justice or the chief judge of the United States Court of Appeals for the Ninth Circuit may assign any circuit or district judge of the Ninth Circuit, with the consent of the judge so assigned, to serve temporarily as a judge of any duly constituted court of the freely associated compact states whenever an official duly authorized by the laws of the respective compact state requests such assignment and such assignment is necessary for the proper dispatch of the business of the respective court.

(b) The Congress consents to the acceptance and retention by any judge so authorized of reimbursement from the countries referred to in subsection (a) of all necessary travel expenses, including transportation, and of subsistence, or of a reasonable per diem allowance in lieu of subsistence. The judge shall report to the Administrative Office of the United States Courts any amount received pursuant to this subsection.

(Added Pub. L. 100-702, title X, §1022(1), Nov. 19, 1988, 102 Stat. 4672.)

## CHAPTER 15—CONFERENCES AND COUNCILS OF JUDGES

Sec.	
331.	Judicial Conference of the United States.
332.	Judicial councils of circuits.
333.	Judicial conferences of circuits.
334.	Institutes and joint councils on sentencing.
335.	Judicial Conference of the Court of International Trade.

#### AMENDMENTS

1986—Pub. L. 99-466, §2(b), Oct. 14, 1986, 100 Stat. 1190, added item 335.

1980—Pub. L. 96-458, §2(d)(2), Oct. 15, 1980, 94 Stat. 2036, inserted “of circuits” in item 332.

1958—Pub. L. 85-752, §2, Aug. 25, 1958, 72 Stat. 845, added item 334.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2109 of this title.

### § 331. Judicial Conference of the United States

The Chief Justice of the United States shall summon annually the chief judge of each judicial circuit, the chief judge of the Court of International Trade, and a district judge from each judicial circuit to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall

be known as the Judicial Conference of the United States. Special sessions of the Conference may be called by the Chief Justice at such times and places as he may designate.

The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit and shall serve as a member of the Judicial Conference of the United States for a term of not less than 3 successive years nor more than 5 successive years, as established by majority vote of all circuit and district judges of the circuit. A district judge serving as a member of the Judicial Conference may be either a judge in regular active service or a judge retired from regular active service under section 371(b) of this title.

If the chief judge of any circuit, the chief judge of the Court of International Trade, or the district judge chosen by the judges of the circuit is unable to attend, the Chief Justice may summon any other circuit or district judge from such circuit or any other judge of the Court of International Trade, as the case may be. Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the sessions of the conference and advise as to the needs of his circuit or court and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.

The Conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary. It shall also submit suggestions and recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business. The Conference is authorized to exercise the authority provided in section 372(c) of this title as the Conference, or through a standing committee. If the Conference elects to establish a standing committee, it shall be appointed by the Chief Justice and all petitions for review shall be reviewed by that committee. The Conference or the standing committee may hold hearings, take sworn testimony, issue subpoenas and subpoenas duces tecum, and make necessary and appropriate orders in the exercise of its authority. Subpoenas and subpoenas duces tecum shall be issued by the clerk of the Supreme Court or by the clerk of any court of appeals, at the direction of the Chief Justice or his designee and under the seal of the court, and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas and subpoenas duces tecum issued on behalf of the United States or an officer or any agency thereof. The Conference may also prescribe and modify rules for the exercise of the authority provided in section 372(c) of this title. All judicial officers and employees of the United States shall promptly carry into effect all orders of the Judicial Conference or the standing committee established pursuant to this section.

The Conference shall also carry on a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use as prescribed by the Supreme Court for the other courts of the United States pursuant to law. Such changes in and additions to

those rules as the Conference may deem desirable to promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay shall be recommended by the Conference from time to time to the Supreme Court for its consideration and adoption, modification or rejection, in accordance with law.

The Judicial Conference shall review rules prescribed under section 2071 of this title by the courts, other than the Supreme Court and the district courts, for consistency with Federal law. The Judicial Conference may modify or abrogate any such rule so reviewed found inconsistent in the course of such a review.

The Attorney General shall, upon request of the Chief Justice, report to such Conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.

The Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation.

(June 25, 1948, ch. 646, 62 Stat. 902; July 9, 1956, ch. 517, §1(d), 70 Stat. 497; Pub. L. 85-202, Aug. 28, 1957, 71 Stat. 476; Pub. L. 85-513, July 11, 1958, 72 Stat. 356; Pub. L. 87-253, §§1, 2, Sept. 19, 1961, 75 Stat. 521; Pub. L. 95-598, title II, §208, Nov. 6, 1978, 92 Stat. 2660; Pub. L. 96-458, §4, Oct. 15, 1980, 94 Stat. 2040; Pub. L. 97-164, title I, §111, Apr. 2, 1982, 96 Stat. 29; Pub. L. 99-466, §1, Oct. 14, 1986, 100 Stat. 1190; Pub. L. 100-702, title IV, §402(b), Nov. 19, 1988, 102 Stat. 4650; Pub. L. 104-317, title VI, §601(a), Oct. 19, 1996, 110 Stat. 3857.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §218 (Sept. 14, 1922, ch. 306, §2, 42 Stat. 838; July 5, 1937, ch. 427, 50 Stat. 473).

Provisions as to associate justice acting when Chief Justice is disabled are omitted as unnecessary in view of section 3 of this title giving senior associate justice power to act upon the disability of the Chief Justice.

The provision of section 218 of title 28, U.S.C., 1940 ed., as to traveling expenses is incorporated in section 456 of this title.

Provision as to time and place for holding conference was omitted as unnecessary since the Chief Justice is vested with discretionary power to designate the time and place under the language retained.

The references to "chief judge" are in harmony with other sections of this title. (See Reviser's Note under section 136 of this title.)

Provision for stated annual reports by the chief judge of the district was omitted as obsolete and unnecessary in view of sections 332 and 333 of this title.

The last paragraph is new and is inserted to authorize the communication to Congress of information which now reaches that body only because incorporated in the annual report of the Attorney General.

Numerous changes were made in phraseology and arrangement.

#### REFERENCES IN TEXT

Rule 45(c) of the Federal Rules of Civil Procedure, referred to in fourth paragraph, is set out in the Appendix to this title.

#### AMENDMENTS

1996—Pub. L. 104-317 added second par. and struck out former second par. which read as follows: "The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the cir-

cuit at the annual judicial conference of the circuit held pursuant to section 333 of this title and shall serve as a member of the conference for three successive years, except that in the year following the enactment of this amended section the judges in the first, fourth, seventh, and tenth circuits shall choose a district judge to serve for one year, the judges in the second, fifth, and eighth circuits shall choose a district judge to serve for two years and the judges in the third, sixth, ninth, and District of Columbia circuits shall choose a district judge to serve for three years."

1988—Pub. L. 100-702 inserted paragraph requiring Judicial Conference review of section 2071 rules prescribed by courts other than Supreme court or district courts for consistency with Federal law.

1986—Pub. L. 99-466, §1(a), inserted ", the chief judge of the Court of International Trade," and substituted "Conference may" for "conference may" in first par.

Pub. L. 99-466, §1(b), inserted ", the chief judge of the Court of International Trade," and "or any other judge of the Court of International Trade, as the case may be" in first sentence of third par.

Pub. L. 99-466, §1(c), substituted "Conference" for "conference" in sixth par.

1982—Pub. L. 97-164, in first par., struck out references to the chief judge of the Court of Claims and to the chief judge of the Court of Customs and Patent Appeals in the enumeration of judges which the Chief Justice must summon each year for a conference and, in third par., struck out provision that authorized the Chief Justice to summon an associate judge of the Court of Claims or the Court of Customs and Patent Appeals if the chief judge of either of those courts could not attend.

1980—Pub. L. 96-458, in fourth par., substituted "It shall also submit suggestions and recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business." for "and shall submit suggestions to the various courts, in the interest of uniformity and expedition of business.", and inserted provisions relating to exercise of authority under section 372(c) as the Conference or through standing committee, the holding of hearings, taking of testimony, and the issuance of subpoenas pursuant to rule 45(c) of the Federal Rules of Civil Procedure.

1978—Pub. L. 95-598 directed the amendment of section by inserting references to bankruptcy judges, which amendment did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1961—Pub. L. 87-253 provided for the summoning to the judicial conference of the chief judge of the Court of Customs and Patent Appeals, and if he is unable to attend, for the summoning of an associate judge of such court.

1958—Pub. L. 85-513 inserted paragraph requiring a continuous study of the operation and effect of the general rules of practice and procedure.

1957—Pub. L. 85-202 provided generally in first three paragraphs for the representation of district judges on the Judicial Conference.

1956—Act July 9, 1956, inserted provisions relating to participation of Court of Claims judges.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-702 effective Dec. 1, 1988, see section 407 of Pub. L. 100-702, set out as a note under section 2071 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Section 4 of Pub. L. 99-466 provided that: "This Act and the amendments made by this Act [enacting section 335 of this title, amending this section and section 569 of this title, renumbering section 873 of this title as 872, and repealing former section 872 of this title] shall take effect 60 days after the date of the enactment of this Act [Oct. 14, 1986]."

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Section 7 of Pub. L. 96-458 provided that: "This Act [amending this section and sections 332, 372, and 604 of this title and enacting provisions set out as notes under this section and section 1 of this title] shall become effective on October 1, 1981."

#### POLICIES, PROCEDURES, AND METHODOLOGIES USED IN RECOMMENDATION FOR CREATION OF ADDITIONAL FEDERAL JUDGESHIPS; STUDY BY GENERAL ACCOUNTING OFFICE AND REPORT TO CONGRESS

Pub. L. 101-650, title II, §205, Dec. 1, 1990, 104 Stat. 5103, provided that:

"(a) IN GENERAL.—The Comptroller General of the United States shall review the policies, procedures, and methodologies used by the Judicial Conference of the United States in recommending to the Congress the creation of additional Federal judgeships. In conducting such review the Comptroller General shall, at a minimum, determine the extent to which such policies, procedures, and methodologies—

"(1) provide an accurate measure of the workload of existing judges;

"(2) are applied consistently to the various circuit courts of appeals and district courts; and

"(3) provide an accurate indicator of the need for additional judgeships.

"(b) REPORT TO CONGRESS.—The Comptroller General shall, not later than 18 months after the date of the enactment of this Act [Dec. 1, 1990], report the results of the review conducted under subsection (a) to the Committees on the Judiciary of the House of Representatives and the Senate. The report shall include such recommendations as the Comptroller General considers appropriate for revisions of the policies, procedures, and methodologies used by the Judicial Conference that were reviewed in the report."

#### FEDERAL COURTS STUDY COMMITTEE

Title I of Pub. L. 100-702 provided that:

#### TITLE I—FEDERAL COURTS STUDY COMMITTEE

##### "SEC. 101. SHORT TITLE.

"This title may be cited as the 'Federal Courts Study Act'.

##### "SEC. 102. ESTABLISHMENT AND PURPOSES.

"(a) ESTABLISHMENT.—There is hereby established within the Judicial Conference of the United States, a Federal Courts Study Committee on the future of the Federal Judiciary (hereafter referred to as the 'Committee').

"(b) PURPOSES.—The purposes of the Committee are to—

"(1) examine problems and issues currently facing the courts of the United States;

"(2) develop a long-range plan for the future of the Federal Judiciary, including assessments involving—

"(A) alternative methods of dispute resolution;

"(B) the structure and administration of the Federal court system;

"(C) methods of resolving intracircuit and inter-circuit conflicts in the courts of appeals; and

"(D) the types of disputes resolved by the Federal courts; and

"(3) report to the Judicial Conference of the United States, the President, the Congress, the Conference of Chief Justices, and the State Justice Institute on the revisions, if any, in the laws of the United States which the Committee, based on its study and evaluation, deems advisable.

##### "SEC. 103. MEMBERSHIP OF THE COMMITTEE.

"(a) APPOINTMENTS.—The Committee shall be composed of fifteen members to be appointed by the Chief

Justice of the United States, within ten days after the effective date of this title.

“(b) **SELECTION.**—The membership of the Committee shall be selected in such a manner as to be representative of the various interests, needs and concerns which may be affected by the jurisdiction of the Federal courts. The Chief Justice shall designate one of the members of the Committee to serve as Chairman.

“(c) **TERM OF OFFICE.**—The Committee members shall serve at the pleasure of the Chief Justice.

“(d) **RULES OF PROCEDURE.**—Rules of procedure shall be promulgated by vote of a majority of the Committee.

“**SEC. 104. POWERS OF THE COMMITTEE.**

“(a) **HEARINGS.**—The Committee or, on the authorization of the Committee, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, as the Committee or any such subcommittee may deem advisable.

“(b) **INFORMATION AND ASSISTANCE.**—The Administrative Office of the United States Courts, the Federal Judicial Center, and each department, agency, and instrumentality of the executive branch of the Government, including the National Institute of Justice and independent agencies, shall furnish to the Committee, upon request made by the Chairman, such information and assistance as the Committee may reasonably deem necessary to carry out its functions under this title, consistent with other applicable provisions of law governing the release of such information.

“(c) **PERSONNEL.**—(1) Subject to such rules and regulations as may be adopted by the Committee, the Director of the Administrative Office shall furnish to the Committee necessary staff and technical assistance in response to needs specified.

“(2) [Amended section 5108(c)(1) of Title 5, Government Organization and Employees.]

“(d) **ADVISORY PANELS.**—The Committee is authorized, for the purpose of carrying out its functions and duties pursuant to the provisions of this title, to establish advisory panels consisting of Committee members or members of the public. Such panels shall be established to provide expertise and assistance in specific areas, as the Committee deems necessary.

“**SEC. 105. FUNCTIONS AND DUTIES.**

“The Committee shall—

“(1) make a complete study of the courts of the United States and of the several States and transmit a report to the President, the Chief Justice of the United States, the Congress, the Judicial Conference of the United States, the Conference of Chief Justices, and the State Justice Institute on such study, within fifteen months after the effective date of this title;

“(2) recommend revisions to be made to laws of the United States as the Committee, on the basis of such study, deems advisable;

“(3) develop a long-range plan for the judicial system; and

“(4) make such other recommendations and conclusions it deems advisable.

“**SEC. 106. COMPENSATION OF MEMBERS.**

“(a) **EMPLOYEES OF THE GOVERNMENT.**—A member of the Committee who is an officer or full-time employee of the United States shall receive no additional compensation for his or her services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Committee, not to exceed the maximum amounts authorized under section 456 of title 28.

“(b) **PRIVATE SECTOR.**—A member of the Committee who is from the private sector shall receive \$200 per diem for each day (including travel time) during which he or she is engaged in the actual performance of duties vested in the Committee, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, not to exceed the

maximum amounts authorized under section 456 of title 28.

“**SEC. 107. EXPIRATION OF THE COMMITTEE.**

“The Committee shall cease to exist on the date 60 days after it transmits the report pursuant to section 105.

“**SEC. 108. AUTHORIZATION OF APPROPRIATIONS.**

“To carry out the purposes of this title there are authorized to be appropriated \$300,000 for each of the fiscal years 1989 and 1990.

“**SEC. 109. EFFECTIVE DATE.**

“This title shall become effective on January 1, 1989.”

**AUTHORIZATION OF APPROPRIATIONS**

Section 6 of Pub. L. 96-458 provided that: “There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [amending this section and sections 332, 372, and 604 of this title and enacting provisions set out as notes under this section and section 1 of this title].”

**CROSS REFERENCES**

Annuities to widows and surviving dependent children of judges, review by Judicial Conference of the United States of questions of dependency and disability, see section 376 of this title.

Pretermisison of regular term or session of court of appeals with consent of Judicial Conference of the United States, see section 48 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 372 of this title; title 42 section 10608.

**§ 332. Judicial councils of circuits**

(a)(1) The chief judge of each judicial circuit shall call, at least twice in each year and at such places as he or she may designate, a meeting of the judicial council of the circuit, consisting of the chief judge of the circuit, who shall preside, and an equal number of circuit judges and district judges of the circuit, as such number is determined by majority vote of all such judges of the circuit in regular active service.

(2) Members of the council shall serve for terms established by a majority vote of all judges of the circuit in regular active service.

(3) Only circuit and district judges in regular active service shall serve as members of the council.

(4) No more than one district judge from any one district shall serve simultaneously on the council, unless at least one district judge from each district within the circuit is already serving as a member of the council.

(5) In the event of the death, resignation, retirement, or disability of a member of the council, a replacement member shall be designated to serve the remainder of the unexpired term by the chief judge of the circuit.

(6) Each member of the council shall attend each council meeting unless excused by the chief judge of the circuit.

(b) The council shall be known as the Judicial Council of the circuit.

(c) The chief judge shall submit to the council the semiannual reports of the Director of the Administrative Office of the United States Courts. The council shall take such action thereon as may be necessary.

(d)(1) Each judicial council shall make all necessary and appropriate orders for the effective